



Exchange of good practices on gender equality

Measures to fight
violence against women
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Intervention and prevention to overcome gender-based violence and domestic violence in Germany

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1. Overall policy background

1.1. General policy

For over 35 years German policy has evolved based on the understanding of violence against women as a complex of interrelated forms of domination rooted in unequal gender relations. Support and protection for victims has always been the priority; advocacy and services emerged to address specific forms of violence. The constitutional provisions of a federal republic and of priority for the voluntary sector meant that the national government has primarily funded model projects and research, published guidelines and encouraged multi-agency co-operation.

The first post-Beijing National Action Plan included legislation to improve responses to domestic violence, a 6-year evaluation of multiagency projects, a representative national survey on violence against women and funding for national NGO-coordination centres. The current NAP has a focus on identifying and meeting special needs, including a national survey of violence experienced by women with disabilities, and the first stocktaking of support services for victimised women and their funding¹. Unlike Ireland, the national government cannot directly fund or manage either services for victims or programmes for perpetrators.

Legislation in Germany is consistently gender-neutral, and tends towards codification following social change or jurisprudence rather than using law to modify attitudes or bring about social change. In particular, criminal justice is not considered a significant deterrent. Changes in criminal law thus aimed mostly at removing traditional exemptions for violence in the private sphere, and have followed the principle that all victims should have an equal right to protection and redress. This precludes legislation that sanctions actions based on specific relationships or gender, as that would leave victims outside such categories without equal rights.

The sceptical perspective on criminal justice and Germany's historical experience with the abuse of power in fast-track prosecution have meant that specialised domestic violence courts to handle cases of intimate partner violence have not been considered an option. Instead, the role of the police as guarantors of public safety, with a strong motivation within the police force to take on a constructive role in the community (police have typically joined with women's advocacy or equality agencies as the main drivers of multi-agency cooperation) made the Austrian model of a police ban removing the perpetrator from the residence attractive. Federal legislation

¹ Aktionsplan II der Bundesregierung zur Bekämpfung von Gewalt gegen Frauen
<http://www.bmfsfj.de/BMFSFJ/gleichstellung.did=73000.html>, English at:
<http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/aktionsplan-II-gewalt-gegen-frauen-englisch.property=pdf.bereich=bmfsfj.rwb=true.pdf>

(Protection Against Violence Act 2002) provided for specific civil protection orders (including protection from stalking) and exclusion of the perpetrator from a joint residence. The police ban (regulated by state level law in the 16 states) and proactive counselling centres, not yet available everywhere, aim to provide the victim with a period of safety as well as information and support. Whether or not there is evidence for criminal prosecution is independent of these measures.

2. Police bans and protection orders

2.1. Immediate protection

There is a broad consensus in Germany on the police ban as a good response to domestic violence. It imposes immediate physical distance on site, without requirement of evidence of a crime, and thus delivers prevention and protection. It was intended to convey a message of the state to the perpetrator, to be independent of the wishes of the victim, who is not responsible for the intervention. It is almost always accompanied by a police-issued temporary restraining order forbidding contact and/or presence in an area where the victim goes about her daily life.

Although violation of a protection order is a criminal offence, the police have not generally been tasked with supervising compliance; the breach of an order is usually not prosecuted unless the victim lays a complaint. A key element in the legal framework was to make use of police intervention powers below the threshold of criminal law based on a prima facie assessment of probable danger. Police law and procedural rules being regional, there is no national policy on sanctions for breach of a police ban, but in many states the ban includes the explicit threat of a fine. In practice, there seems to be little active follow-up, and enforcement is weak.

Detailed analysis of all case files of police intervention in 6 large districts for all of 2006 found that police bans were imposed, almost always for ten days, in 42% of all cases. When the perpetrator was not resident, removal was not an issue, but there was also no restraining order². Clearly, the police ban has become routine.

Although systematic data are lacking, very few cases of domestic violence are prosecuted. Even where it is obligatory for the police to report all domestic violence to the prosecutor, the proportion of cases that go to court is far lower than that of incidents registered as dangerous assault (an ex officio offence) or of injuries requiring medical care. In the above data set, less than 1% of perpetrators received a prison sentence.

2.2. Court orders

Advised and supported by intervention centres (who will also advise men victims of domestic violence, although these make up not more than 5% of their clientele), it is up to the victim to decide if she wishes to ask for a medium- or longer term protection. Numerous difficulties arise from the fact that protection orders are

² Greuel, Luise: Evaluation von Maßnahmen zur Verhinderung von Gewalteskalationen in Partnerschaften bis hin zu Tötungsdelikten und vergleichbaren Bedrohungsdelikten. Institut für Polizei und Sicherheitsforschung [IPoS] March 2010, at: http://www.polizei.nrw.de/media/Dokumente/Behoerden/LKA/Gewaltesk_Evaluation_lang.pdf

explicitly separated from custody and visitation matters and cannot be dealt with in the same proceedings. Not all of these problems and incompatibilities have been solved, but since 2009 the family courts have been solely tasked with issuing civil protection and exclusion orders. There has been no evaluation of this reform as yet.

Generally, electronic monitoring has not been used to monitor compliance with either police bans or court protection orders. It is generally assumed that the victim will initiate action if she feels the breach of an order to be a threat.

2.3. Strengths and weaknesses

The rapid protection response is a major strength. The police appreciate being able to act decisively to prevent (further) harm. Family courts in Germany are geared to act rapidly when necessary, for example to prevent child endangerment or with injunctions to avoid irreparable harm. Generally, police bans and police “educating” perpetrators about the law and its potential consequences for them are perceived as the most effective methods of achieving accountability.

The police ban introduced a much needed empowerment measure enabling women to consider their options in safety. Evaluations indicate that the ban meets the needs of many women, although a minority might need a stronger intervention³. Police files show that the great majority of perpetrators do not re-offend during the following 12 months; a minority of ca. 13 % come to police attention as repeat offenders⁴. Of course, both before and after the police intervention, there is often a history of violence and coercion but at least it seems not to escalate. No data analysis exists on whether re-offending is influenced by police measures.

Enforcement is clearly a major weak point. Implementation has tended to recur to a rational choice model, underestimating the power of abusive men to intimidate and thus prevent their victims from pressing charges, reporting a breach of an order, or otherwise using the legal tools and rights on offer. Intervention centres to support and advise women are unevenly established across the country. Equipping police to monitor compliance (and tasking them with active supervision) could be a significant improvement, and the Spanish experience could be helpful in this respect.

A weakness of the German approach has been to take the pressure off police and prosecutors to investigate and prosecute even more serious violence. Although a reform of the rules for prosecution clarified for domestic violence that simple assault should be considered a public interest crime, evidence from analysis of case files indicates that cases are dropped when the victim does not press charges or fails to respond to an invitation to give evidence⁵; very little is done to collect objective evidence. The availability of civil protection orders after a police ban seems to have put the primary responsibility back onto the woman to ensure her own safety.

³ Helfferich, Cornelia, Kavemann, Barbara, Lehmann, Katrin: Platzverweis - Beratung und Hilfen.: Wissenschaftliche Untersuchung zur Situation von Frauen und zum Beratungsangebot nach einem Platzverweis bei häuslicher Gewalt. Freiburg i.B. 2004, at: <http://www.sozialministerium-bw.de/fm7/1442/Platzverweis-Forschungsprojekt-Abschlussbericht2004.pdf>

⁴ Greuel 2010, p. 193 ff.

⁵ Grieger, Katja, Kavemann, Barbara, Leopold, Beate, Rabe, Heike: Staatliche Intervention bei häuslicher Gewalt, Band II der Wissenschaftliche Begleitung Interventionsprojekte gegen häusliche Gewalt (WiBIG): Abschlussbericht „Gemeinsam gegen häusliche Gewalt“. BMFSFJ 2004, at: <http://www.wibig.uni-osnabrueck.de/wibig0.htm> ; similar findings in Greuel 2010, p. 195.

3. Perpetrator programmes

3.1. Development in Germany

Because local initiatives were the key to practical action, programmes to change the violent behaviour of perpetrators have developed much more slowly than services for women, depending as they do on men's commitment to elimination violence against women. It was impeded by ideological differences on whether such programmes should serve only men who voluntarily seek to overcome violence. Broad recognition of the value of multi-agency cooperation has led to establishment of programmes that cooperate locally with both criminal justice and women's support services, while the voluntary approach has developed into a commercial organisation offering training to social workers.

The federal government has strongly supported the cooperative approach, funding work on developing standards, resolved upon at a 2007 conference and published by the federal ministry⁶. There is now a national voluntary association of 44 organisations agreeing to work with both referrals from the justice system and men who voluntarily seek help. They are run by a wide variety of welfare or voluntary organisations and in some cases by probation services.

The standards resemble those described in the Irish paper, including group work meeting once a week for a minimum of six months. Acceptance of such programmes in the criminal justice system has been slowly growing. Based on these standards, a recent (01.03.12) reform in both procedural and criminal law now explicitly regulates that both courts and prosecutors can suspend proceedings (provisional dismissal) conditional upon attending a perpetrator programme. Referral by prosecutors is more widespread, supported by the establishment of specialised prosecution units. In some states police or counselling centres contact the perpetrator pro-actively after a police ban. There is also a recent trend for family courts to refer men who have been violent to programmes when child contact is in dispute.

3.2. Strengths and weaknesses in a comparative view

The Irish paper rightly points out that overcoming men's violence may call for a wider variety of methods for different types, although establishing minimum standards has proven useful to avoid indiscriminate approval, especially of approaches that may in fact sympathise with the perpetrator. This is a key strength.

However, the suggested division into men who will voluntarily attend programmes and men who can only be compelled to do so by a criminal conviction leaves out what may be the great majority of abusive men, who feel justified in using coercive control, but whose violent acts will not, as a rule, lead to a conviction. These men can be pressed to attend a programme by the threat of prosecution, or (as reports from Sweden suggest) by the threat of suspending child contact.

⁶ Bundesarbeitsgemeinschaft Täterarbeit Häusliche Gewalt e.V.: Standards und Empfehlungen für die Arbeit mit männlichen Tätern. Bundesministerium für Familie, Senioren, Frauen und Jugend:

Materialien zur Gleichstellungspolitik 109/2008, at <http://bag-täterarbeit.de/about-2/>

⁶Information on the Violence Against Women support hotline in 6 languages at: <https://www.hilfetelefon.de/en/startseite/>.

4. The use of ICT

4.1. Launch of 24-hr free helpline for all forms of violence against women

In Germany, as in Spain, there has been a range of regionally based telephone lines with information and support on different issues. A major innovation, a national 24-hour helpline was launched on March 6, 2013. It has its foundation in a specific law, establishing a budget line, and is the first direct measure by the national government to take responsibility for ensuring support, protection and redress for all victims of violence against women across the country⁷.

The helpline offers multilingual advice and information relating to all forms of violence against women under a free 016 telephone number as well as online (email or chat), and has a staff of approximately 80 to 90 women professionals who have experience and training in responding to the various forms of violence. The Spanish paper suggests that decreasing use of their telephone helpline may be due to the younger generation preferring the internet to search for information. The German helpline anticipates this problem by offering dual paths of access.

Preparation for the launch took one year, during which a comprehensive data base of services and resources for supporting victims was built up, so that callers, in addition to receiving immediate psychosocial and legal advice, can be referred as needed directly to a resource or service near where they live. Indirectly this places local authorities under an obligation; the helpline will collect systematic data on availability of provision and provide an impetus towards closing gaps. Special attention has been given to accessibility and support for minorities and for women with disabilities; thus, the information flyer is published in an “Easy Read” version as well as in 6 languages.

4.2. Data banks and websites

There are no data banks on victims of gender-based violence, nor would such data banks be acceptable in German law, where informational self-determination has been declared a fundamental constitutional right and is a matter of strong public feelings. Nor are there state-run “recovery programmes”; information and support are offered mostly by civil society organisations, but in some states the police have a victim protection ombudsperson. Following the principle of empowerment, use and participation are entirely voluntary. Excluding women from any kind of emergency protection if they choose not to participate in a “recovery programme”, as noted for the Spanish ATENPRO service, would not find acceptance in Germany, as this could imply that it is the victim who is the problem and needs to change. Multi-agency cooperation in Germany has developed the concept of an unbroken “chain of intervention”, meaning that whenever a victim turns to any agency or professional, further protection and support is available without barriers or delay if needed⁸.

⁷ Information on the Violence Against Women support hotline in 6 languages at: <https://www.hilfetelefon.de/en/startseite/>.

⁸ Hagemann-White, Carol: Development of policy on violence against women in Germany: From the shelter movement to policies for a „chain of intervention“, in: Gaber, M.A. (ed.): Violence in the EU Examined. Policies on Violence Against Women, Children and Youth in 2004 EU Accession Countries, Ljubljana: University of Ljubljana 2009, pp. 103-113.

The national coordination centres for the support services each have websites, the network of shelters is the longest standing and offers victims or concerned individuals interactive access (by map and by postal code) to information on the nearest shelter (while addresses are secret, telephone numbers of services are not). For other support services, the user has to know where to look, and accessible websites have been impeded both by lack of resources and reluctance of locally-based services to entrust their data to a national centre. However, since the national hotline will maintain a comprehensive database on all services and resources for all forms of violence against women, with trained staff as guides to relevant information, it is to be hoped that this central resource will either refer directly to, or supersede the more partial and less easily located sources of information.

5. Issues for comparison and discussion

5.1. Responsibility for services and programmes

Effective practice requires wide coverage and balanced funding of both services for victims and perpetrator intervention. The fiscal responsibility for shelters, mostly initiated and run by NGOs, has been a topic of policy debate and litigation in Germany for years. While women's right to payment of the cost of both shelter and psychosocial support by social law is legally established (with some limitations), no such clarification exists for perpetrator programmes.

5.2. Perpetrator assessment

The increased use of risk assessment has focussed unduly on victims, although it is the perpetrator who poses a risk. Differentiation of programmes will require European research and methods that focus on perpetrators as the "risk carrier". The same applies to "evidence based" tools from the US, where the patterns of domestic violence may be quite different. In-depth analysis of killing of intimate partners, combined with a comprehensive study of police intervention files, found in Germany that these instruments would not have been useful in predicting lethality⁹. Fully half of the cases had never before come to the attention of the police, and for the rest, increasing frequency and severity of physical violence were the exception.

5.3. Justice system responsiveness

Across countries and measures, there seems to be a recurring obstacle in the hesitance of judges to use the tools that have been developed. The Spanish paper mentioned the under-use of electronic monitoring devices; the Irish paper and the German experience suggest that there are few convictions and few court referrals to perpetrator programmes, although the legal basis for referrals has now been strengthened. Prosecutors tend not to initiate proceedings, and judges not to sanction the violation of protection orders. This is especially a concern with respect to the more dangerous perpetrators who are not impressed by a police ban.

⁹ Greuel 2010, p. 2011 ff.

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